

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

vs.

RAMON ARAGON, *et al.*,

Defendants.

CV 69-7941 BB (ACE)

RIO CHAMA STREAM SYSTEM

STATUS REPORT ON DETERMINATION OF *DE MINIMIS* USES

Pursuant to the Order filed October 20, 2003 (Docket No. 7271) the State of New Mexico, *ex rel.* State Engineer (State), files this status report describing its current position with respect to the scope of adjudication proceedings and domestic and livestock uses in the Rio Chama Stream System.

1. On May 5, 1995 the State filed its Motion for Approval of Procedure and Schedule for Determination of Effect of *De Minimis* Uses (Docket No. 4025). In that motion the State proposed to make a series of hydrologic studies to identify *de minimis* domestic and livestock groundwater uses within the Chama basin. The State proposed that these uses should not be included within the scope of the adjudication proceedings. To the knowledge of the undersigned counsel, these studies were never completed.

2. As directed by the Order filed October 20, 2003, the State has reevaluated its position with respect to the scope of adjudication proceedings and relatively small domestic and livestock groundwater uses. The State's current position is that all water uses should be included in the adjudication proceedings and that even small domestic and livestock groundwater uses cannot be

considered *de minimis*.

3. Due to staffing limitations, the State will not be able to begin the survey and adjudication of any groundwater uses in the Chama basin, large or small, until after the completion of the present individual subfile proceedings that involve surface water use and diversion. The 2003 New Mexico Water Plan calls for the completion of the Non-Indian individual subfile phase of the Rio Chama adjudication concerning surface water use by December 31, 2010.

4. The State believes that in all sections of the Chama basin the question of how and when the survey and adjudication of domestic and livestock groundwater uses should proceed should remain at this point a matter to be discussed at regularly convened planning meetings with the Special Master, the State and interested counsel. The State estimates that the survey and adjudication of domestic and livestock groundwater uses in this basin will require, at a minimum, 4 to 5 years of work.

5. The Order entered by the Court on February 17, 1995 (Docket No. 3997) stayed the immediate adjudication of certain groundwater uses characterized by the State as *de minimis*, and also ordered the State to propose a plan and preliminary schedule for future proceedings for the remaining domestic and livestock uses. Based on the State's reevaluation of its position with respect to domestic and livestock groundwater uses, the State withdraws the motion filed December 12, 1994 (Docket No. 3476) requesting the stay of the adjudication of certain groundwater rights described as having a *de minimis* effect on surface water flows. For the same reason, the State also withdraws the motion filed May 5, 1995 (Docket No. 4025) for approval of procedure and schedule for the determination of the effect of *de minimis* water uses in the Rio Chama basin.

Respectfully submitted,

/s/ Ed Newville

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CERTIFICATE OF SERVICE

I hereby certify that copies of the above Status Report on Determination of *De Minimis* Uses were mailed to following persons on December 30, 2003.

/s/ Ed Newville
Edward G. Newville

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